**IN THE HIGH COURT OF JUDICATUREFORRAJASTHAN ATJODPUR**

**ORDER**

S.B. Criminal Misc. Petition No.1787/2007

(Bhagwan Dass Vs. State & Anr.)

Date of Order : 21.11.2007

**HON'BLE MR. H.R. PANWAR, J.**

Mr. G.J. Gupta for petitioner.
Mr. Ashok Upadhyay, P.P.

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner seeks quashing of the proceedings of Case No.32/2007 (Smt. Shanti Vs. Bhagwan Dass) under the provisions of the Protection of Women from Domestic Violation Act, 2005 (43 of 2005) (for short 'the Act') pending before the Additional Chief Judicial Magistrate No.2, Jodhpur (for short 'the trial court').

Heard learned counsel for the petitioner and carefully gone through the material available on record.

It appears that on a petition filed by respondent No.2, proceeding has been initiated but no adverse order has been passed till today against the petitioner. The order sheets of the trial court show that the parties have filed reply and the matter is posted for arguments. Without there being any adverse order against the petitioner, the petitioner seeks quashing of the proceedings on the ground that Section 8 of the Act provides that protection officer shall be appointed by the State Government, which has not been done so far and, therefore, the proceedings are bad in law.

Section 8 of the Act reads as under :

> "**8. Appointment of Protection Officers.-** (1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and performed the duties conferred on him by or under this Act.
>
> (2) The Protection Officer shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.
>
> (3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed."

So far as maintenance aspect is concerned, specific provisions are there in the Family Court Act, 1954 which takes away jurisdiction of other courts.

The Act is special statute and in addition to any other provisions which are in existence and, more so, this question is not gone into by the trial court and even has not been raised before the trial court.

In this view of the matter, it cannot be said that the the proceedings initiated by the trial court would result in serious and manifest injustice or abuse of process of Court warranting any interference under the inherent jurisdiction under Section 482 of the Cr.P.C. However, it will be open for the petitioner to raise all such questions before the trial court at appropriate stage.

The instant criminal misc. petition is, therefore, dismissed.

**(H.R. PANWAR), J.**

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S. B. Criminal Misc. Stay Petition No.1408/2007
In
S.B. Criminal Misc. Petition No.1787/2007

Date of Order : 21.11.2007

**HON'BLE MR. H.R. PANWAR, J.**

Mr. G.J. Gupta for petitioner.
Mr. Ashok Upadhyay, P.P.

Since the main petition itself has been dismissed, the stay petition also stands dismissed.

(H.R. PANWAR), J.

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